

THE WEISER LAW FIRM, P.C.  
BRETT D. STECKER  
22 Cassatt Avenue  
Berwyn, PA 19312  
Telephone: 610/225-2677  
Facsimile: 610/ 408-8062  
bds@weiserlawfirm.com

Lead Counsel for Plaintiffs

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN JOSE DIVISION

IN RE INTUITIVE SURGICAL  
SHAREHOLDER DERIVATIVE  
LITIGATION

) Lead Case No. 5-14-CV-00515-EJD  
)  
) JOINT STATUS REPORT  
)

\_\_\_\_\_  
This Document Relates To:

ALL ACTIONS.  
\_\_\_\_\_

Pursuant to the Court's Order dated June 2, 2016 (the "Order"), Plaintiff Robert Berg ("Plaintiff"), and the Individual Defendants<sup>1</sup> (collectively the "Parties") submit this Joint Status Report to apprise the Court of the status of *Public School Teachers' Pension and Retirement Fund of Chicago v. Guthart, et al.*, No. CIV-526930 (Cal. Super. Ct. 2014) (the "State Action"). The last report provided to the Court was filed on January 12, 2017 (the "Last Report"). See ECF No. 110.

As noted in the Last Report, Plaintiff intervened in the State Action on May 23, 2016. In light of Plaintiff's intervention, the Parties jointly requested a stay of this Action on May 31, 2016. See ECF No. 106. The Court stayed this Action on June 2, 2016, while requesting periodic updates. ECF No. 108.

In the Last Report, the Parties advised the Court that, on September 15, 2016, the Parties (including the plaintiff in the State Action) entered into a memorandum of understanding ("MOU") to settle all related shareholder derivative actions, including this Action. A conference was held on March 30, 2017 in the State Action (the "Conference") to update the state court on the status of documenting a final settlement agreement. During the Conference, the Parties informed the state court that a near complete settlement agreement had been documented, and that the remaining unresolved issue was the award of attorneys' fees and expenses which will be submitted to a three-member panel for binding arbitration. At present, the three-member arbitration panel has been selected and the Parties expect that the arbitration proceeding will occur in early-May.

Subject to any additional instruction from this Court, the Parties will continue to provide updates as contemplated by the Order.

DATED: April 12, 2017

THE WEISER LAW FIRM, P.C.  
BRETT D. STECKER

\_\_\_\_\_  
/s/ Brett D. Stecker  
BRETT D. STECKER  
(admitted pro hac vice)

<sup>1</sup> Nominal Party Intuitive Surgical, Inc. has retained separate counsel to represent it in this Action, the State Action, and the other related shareholder derivative actions.

22 Cassatt Avenue  
Berwyn, PA 19312  
Telephone: 610/225-2677  
Facsimile: 610/ 408-8062

THE WEISER LAW FIRM, P.C.  
ROBERT B. WEISER  
JAMES M. FICARO  
22 Cassatt Avenue  
Berwyn, PA 19312  
Telephone: 610/225-2677  
Facsimile: 610/ 408-8062

THE WEISER LAW FIRM, P.C.  
KATHLEEN A. HERKENHOFF  
12707 High Bluff Drive, Suite 200  
San Diego, CA 92130  
Telephone: 858/794-1441  
Facsimile: 858/794-1450

Lead Counsel for Plaintiffs and Counsel for  
Plaintiff Robert Berg

BERNSTEIN LITOWITZ BERGER  
& GROSSMANN LLP  
BRETT M. MIDDLETON (Bar No. 199427)  
12481 High Bluff Drive, Suite 300  
San Diego, CA 92130  
Telephone: 858/793-0070  
Facsimile: 858/793-0323

MARK LEOVITCH  
DAVID L. WALES  
EDWARD G. TIMLIN  
1251 Avenue of the Americas  
New York, NY 10020  
Telephone: 212/554-1400  
Facsimile: 212/554-1444

Additional Counsel and Co-Lead Counsel in the  
Delaware Action

DATED: April 12, 2017

KEKER & VAN NEST LLP  
MICHAEL D. CELIO - # 197998  
CODY S. HARRIS - # 255302  
KATE E. LAZARUS - # 268242  
PHILIP J. TASSIN - # 287787

/s/ Michael D. Celio  
MICHAEL D. CELIO

633 Battery Street  
San Francisco, CA 94111-1809  
Telephone: 415/391-5400  
Facsimile: 415/397-7188  
mcelio@kvn.com  
charris@kvn.com  
klazarus@kvn.com  
ptassin@kvn.com

Attorneys for Individual Defendants GARY S.  
GUTHART, MARSHALL L. MOHR, LONNIE  
M. SMITH, DAVID J. ROSA, MARK J.  
MELTZER, JEROME J. MCNAMARA,  
AUGUSTO V. CASTELLO, SALVATORE J.  
BROGNA, COLIN MORALES, CRAIG H.  
BARRATT, ERIC H. HALVORSON, AMAL  
M. JOHNSON, ALAN J. LEVY, MARK J.  
RUBASH, and GEORGE STALK JR.

**ATTESTATION**

I, Brett D. Stecker, am the ECF user whose ID and password are being used to file this Joint Case Management Conference Statement. In compliance with General Order 45, X.B., I hereby attest that Michael D. Celio has concurred in this filing.

/s/ Brett D. Stecker  
BRETT D. STECKER

Lead Counsel for Plaintiffs and Counsel for  
Plaintiff Robert Berg

CERTIFICATE OF SERVICE

I hereby certify that on April 12, 2017, I authorized the electronic filing of the foregoing with the Clerk of the Court using the CM/ECF system, which will send notification of such filing to the e-mail addresses denoted on the attached Electronic Mail Notice List.

I certify under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed on April 12, 2017.

/s/ Brett D. Stecker  
BRETT D. STECKER

THE WEISER LAW FIRM, P.C.  
22 Cassatt Avenue  
Berwyn, PA 19312  
Telephone: 610/225-2677  
Facsimile: 610/ 408-8062

Email: bds@weiserlawfirm.com

# Mailing Information for a Case 5:14-cv-00515-EJD In re Intuitive Surgical Shareholder Derivative Litigation

## Electronic Mail Notice List

The following are those who are currently on the list to receive e-mail notices for this case.

- **Michael D. Celio**  
mcelio@keker.com,michael-celio-0196@ecf.pacerpro.com,gloria-peterson-7992@ecf.pacerpro.com,gpeterson@keker.com,efiling@keker.com
- **Jeffrey Joseph Ciarlanto**  
jjc@weiserlawfirm.com
- **Alexander Barnes Dryer**  
adryer@keker.com,efiling@kvn.com,dawn-curran-3389@ecf.pacerpro.com,dxc@kvn.com,alexander-dryer-2761@ecf.pacerpro.com
- **Jo W. Golub**  
jgolub@keker.com,sgiminez@keker.com,sandy-giminez-6735@ecf.pacerpro.com,SHarmison@keker.com,efiling@keker.com,jah@keker.com,jo-golub-8129@ecf.pacerpro.com
- **Cody Shawn Harris**  
charris@kvn.com,jacquelynn-smith-8972@ecf.pacerpro.com,cody-harris-9947@ecf.pacerpro.com,jhartmann@kvn.com,efiling@kvn.com,jsmith@kvn.com,rabaya@kvn.com,sharmison@kvn.com
- **Kathleen Ann Herkenhoff**  
kah@weiserlawfirm.com,jmf@weiserlawfirm.com,hl@weiserlawfirm.com
- **Kate Ellis Lazarus**  
klazarus@keker.com,sgiminez@keker.com,kate-lazarus-9440@ecf.pacerpro.com,sandy-giminez-6735@ecf.pacerpro.com,efiling@keker.com
- **Mark Lebovitch**  
MarkL@blbglaw.com,kenneth@blbglaw.com,errol.hall@blbglaw.com
- **Brett M Middleton**  
brettm@blbglaw.com
- **Laurie Carr Mims**  
lmims@keker.com,joanne-winars-4984@ecf.pacerpro.com,efiling@keker.com,laurie-mims-6204@ecf.pacerpro.com,jwinars@keker.com
- **Mark Cotton Molumphy**  
mmolumphy@cpmlegal.com,obacigalupi@cpmlegal.com,jacosta@cpmlegal.com,gjensen@cpmlegal.com
- **Walter W. Noss**  
wnoss@scott-scott.com,efile@scott-scott.com
- **Judith S. Scolnick**  
jscolnick@scott-scott.com
- **Brett D. Stecker**  
bds@weiserlawfirm.com,hl@weiserlawfirm.com
- **Philip James Tassin**  
ptassin@keker.com,sgiminez@keker.com,sandy-giminez-6735@ecf.pacerpro.com,sharmison@keker.com,philip-tassin-6713@ecf.pacerpro.com,efiling@keker.com
- **Edward G Timlin**  
Edward.Timlin@blbglaw.com

- **David L Wales**

davidw@blbglaw.com,kenneth@blbglaw.com,errol.hall@blbglaw.com,BrettM@blbglaw.com

- **Robert Brian Weiser**

rw@weiserlawfirm.com

## Manual Notice List

The following is the list of attorneys who are **not** on the list to receive e-mail notices for this case (who therefore require manual noticing). You may wish to use your mouse to select and copy this list into your word processing program in order to create notices or labels for these recipients.

- (No manual recipients)